

**ZONING BOARD OF ADJUSTMENT
P.O. Box 227
Freedom, NH 03836**

Minutes

Freedom Zoning Board of Adjustment: **April 23, 2024**

Present: Karl Ogren, Peter Keenan, Daniel Footit (A), Pam Keith (A), Denny Anderson, Zoning Officer/Building Inspector Gary Williams, Recording Secretary Lindsay Pettengill.

Absent: Chairman Scott Lees, Vice Chairman Craig Niiler, Jacob Stephen (A), Tim Cupka (A)

Public: James Rines, Tom Crotty, Stephen & Luane Genest, Wendy White, Paul Elie, Phillip Marbury, Ian Masters, Bryan Berlind, Kevin Cote, Susan Gonthier, Dave Gonthier, Ryan Jean

During this meeting, the following cases will be heard:

Application # 23-57-5-24 Glenn Fogarty (Continued from February 27, 2024) (Continued to April 23, 2024)

Applicant seeks to permit construction of a single-story garage within the rear and side yard setbacks.

Applicant is requesting the following:

Variance Article 3 Section 304.2

Property is located at 123 Deer Run Dr. Map 23 Lot 57-5

Application # 30-16-24 Jessica Mahony Trust – 2017 (Continued from March 26, 2024)

Applicant seeks to permit removal of an existing nonconforming home with a new home and detached garage/bunkhouse.

Applicant is requesting the following:

Variance Article 3 Section 304

Variance Article 3 Section 304.5 Table

Variance Article 7 Section 704.5.3

Special Exception Article 3 Section 304.6.3

Special Exception article 7 Section 704.5

Property is located at 291 Huckins Rd. Map 30 Lot 16

Application #27-20-24 Jeffrey and Deborah Mogan

Applicant seeks to permit construction of an exterior stairwell to access 2nd floor space of garage within the front yard setback.

Applicant is requesting the following:

Variance Article 3 Section 304.5 Table Front Setback

Property is located at 466 Pequawket Trail Map 27 Lot 20

Application # 33-31-24 David & Susan Gonthier

Applicant seeks to permit replacement of a current dwelling with a new one as well as a new septic.

Applicant is requesting the following:

Variance Article 3 Section 304.5 Sideline setback

Special Exception Article 3 Section 304.6.3 Erosion control
Special Exception Article 7 Section 704.5.1 Tree cutting
Special Exception Article 3 Section 304.6.5 Tree cutting
Property is located at 3 Holt Rd. Map 33 Lot 31

Acting Chairman Ogren called the meeting to order at 7:00 p.m.

Acting Chairman Ogren introduced the Board to the Public.

Notification of this meeting was published in the Conway Daily Sun and posted at the Freedom Town Office and the Freedom Post Office.

Public Meeting

Peter Keenan made the motion, seconded by Pam Keith, to approve the meeting minutes of March 26, 2024. All were in favor. APPROVED

Application # 23-57-5-24 Glenn Fogarty

Glenn came before the board with an updated plan with the suggestions provided to him by the board at the February 27, 2024 meeting. He reduced the size of the garage to a 24' by 24' and moved it ahead 5'. He wants his garage to be usable and does not feel if he moves it any further behind his house that it will be. He has a hedge started on the Burke abutters side of his property and plans to continue it to reduce the sight of the garage. Garage will never have a second story.

Board Discussion:

- Dan - Tucked in back corner
- Denny/Pam - Addressed as much as he could
- Peter – Still doesn't love side setback and he does have room to move behind the home
- Karl – was hoping to move further off side setback

No Abutters or Public present for comment.

Variance from Article 3 Section 304.2

- 1. 5-0 Motion Carried**
- 2. 4-1 Motion Carried**
- 3. 4-1 Motion Carried**
- 4. 5-0 Motion Carried**
- 5. A. 4-1 Motion Carried**
 - i. 4-1 Motion Carried**
 - ii. 3-2 Motion Carried**

Conditions:

- 1. Per Plan titled Glenn Fogarty. Dated 3/20/2024 Revision.**
- 2. Per Approval of ZBA**

3. **Shrub line added**
4. **Foundation – As built per Zoning Officer**

Findings of Facts:

1. **Garage is Smaller**
2. **Came further off the back line**
3. **Did not move it further back**
4. **No living space-it will stay a single story**

Nay Reasoning:

2. **Nay-Spirit of Ordinance-not spirited**
3. **Nay-Not in spirit of ordinance**
- 5A1. **Nay – Other options available**
- 5A2. **Nay – Other Options available**

Acting Chairman Ogren, seconded by Dan made a motion to approve the Variance from Article 3 Section 304.2. APPROVED 4-1

Application # 30-16-24 Jessica Mahony Trust – 2017 (Continued from March 26, 2024)

James Rines from Horizons Engineering as well as Ian Masters, Architect from SKA Inc, appeared before the board representing Jessica Mahony Trust. Applicant wishes to permit removal of an existing nonconforming home with a new home and detached garage/bunkhouse. Applicant is requesting the Variance for setbacks and Variance for proposed planting originally requested in March, be withdrawn without prejudice as they have brought them into compliance with the Town’s Ordinance.

The Special Exceptions still needed are for erosion control and vegetation removal and planting within 75’ of the shoreline. James read through the provisions and mentioned that a dry well was also added to the storm water runoff plan.

Abutters:

Tom Crotty – 279 Huckins Rd – Home is not in keeping with the neighborhood, and is very overwhelming.

Steve Genest – 293 Huckins Rd – Does not fit the character of the neighborhood.

Average home in the area is 2,000-3,000 sq ft and this one is 9,000 sq ft.

Plans show ½ bath in bunkhouse, 2 full in main house-does not believe this is true for a 9,000sq ft home or that bunkhouse guests will walk to main house for a shower.

Wendy White – 294 Huckins Rd-Karl read email that was submitted by Wendy. Properties have been in her family for many years and she is sad to be losing her view to this large for this large of a home.

Her parents sought a variance years ago to tear down the house that the Mahony’s are looking to remove and they were denied a 5700 sq. ft home.

Luane Genest - Concern for the lake and all the fertilizer and such that could affect it without the proper system in place for runoff.

Afraid bunkhouse will be turned into an apt

James' response:

The White's have a 20' easement to their lake access which will not be disturbed.

No Site plan review is required as the building complies with the zoning ordinance

Bunkhouse concern – the state regulates the septic based on the number of bedrooms and has a separate gallon per day calculation of 60 gallons for bunkhouses. There will be 4 full baths and 1 half bath. The bath in bunkhouse will be ¾ bath. Lot can support 1500-gallon system.

A Variance would be required to turn bunkhouse into Apt or ADU.

Run-off – Dry well has been added.

Garage is only 2 car but has a 3rd bay for storage, not large enough for vehicle

Board Input:

- From last meeting Town Attorney was contacted and stated that Board can reference Section 1104 of the Freedom Ordinance in regard to ADU's and that a stipulation could be entered into the board's decision as for the bunkhouse to not be allowed to become and ADU or Short-Term rental.
- Bunkhouse – disappointed that at the last meeting it was told the bath was a half bath but it is not a ¾ bath.
- ZO Gary mentioned Definition of Living Space in the Ordinance Section 2402 – this would also define the bunkhouse
- Applicant fulfilled all requests from previous meeting

Attorney for applicant states that as there is not the proper equipment in the bunkhouse to be considered an ADU he encourages a stipulation in the conditions that the bunkhouse will not become an ADU.

Special Exception Article 3 Section 304.6.3

A- 5-0 motion carried

J- 5-0 motion carried

C- 5-0 motion carried

K- 5-0 motion carried

H- 5-0 motion carried

L- 5-0 motion carried

Conditions:

- 1. Per Plan titled Zoning Board Application Plan Proposed Conditions for The Jessica Mahony Trust-2017. Dated March 11, 2024 Revision date of 4/8/2024. As well as Architectural A Plans completed by SKA Inc. Dated 4/8/2024.**
- 2. Erosion control shall be installed prior to any earth moving and shall remain in place until construction is complete and site is stabilized.**
- 3. Obtain All State Permits**
- 4. No cooking facilities**
- 5. Minimum 6 – bedroom septic**
- 6. 2-year check-in on trees that are planted**
- 7. Yard area will be maintained in similar fashion as today- natural state**
- 8. No short-term rental or ADU permitted**

Findings of Facts:

- 1. Variances removed from application**

2. Site can support size of building
3. Applicant listened to the board's feedback
4. No kitchen in bunkhouse
5. 6 - bedroom minimum septic

Special Exception Article 7 Section 704.5

- | | |
|------------------------------|------------------------------|
| B- 5-0 motion carried | J- 5-0 motion carried |
| C- 5-0 motion carried | K- 5-0 motion carried |
| H- 5-0 motion carried | L- 5-0 motion carried |

Conditions:

9. Per Plan titled Zoning Board Application Plan Proposed Conditions for The Jessica Mahony Trust-2017. Dated March 11, 2024 Revision date of 4/8/2024. As well as Architectural A Plans completed by SKA Inc. Dated 4/8/2024.
10. Erosion control shall be installed prior to any earth moving and shall remain in place until construction is complete and site is stabilized.
11. Obtain All State Permits
12. No cooking facilities
13. Minimum 6 – bedroom septic
14. 2-year check-in on trees that are planted
15. Yard area will be maintained in similar fashion as today- natural state
16. No short-term rental or ADU permitted

Findings of Facts:

6. Variances removed from application
7. Site can support size of building
8. Applicant listened to the board's feedback
9. No kitchen in bunkhouse
10. 6 - bedroom minimum septic

Acting Chair Ogren, seconded by Peter made a motion to approve the Special Exception from Article 3 Section 304.6.3 and the Special Exception from Article 7 Section 704.5. All were in favor. APPROVED 5-0

Application #27-20-24 Jeffrey and Deborah Mogan

Kevin Cote came before the board representing Jeffrey and Deborah Mogan who request a Variance to construct an exterior stairwell to access the second-floor space of the garage within the front yard setback. It was determined along with the Zoning Officer that this was a safer option than pull down stairs. This will bring the building 10' closer to the setback.

Zoning Officer requested the board wave the foundation certification – Board Approves.

Variance from Article 3 Section 304.5 Table

- 1. 5-0 Motion Carried**
- 2. 5-0 Motion Carried**
- 3. 5-0 Motion Carried**
- 4. 5-0 Motion Carried**
- 5. A. 5-0 Motion Carried**
 - i. 5-0 Motion Carried**
 - ii. 5-0 Motion Carried**

Conditions:

- 1. Per Plan titled Variance Plan Prepared for the Mogan Irrevocable Trust signed by Peter Keenan with the sketch of proposed stairway. Dated April 23, 2024.**

Findings of Facts:

- 1. 10 more inches**
- 2. Cold storage area upstairs**

Acting Chair Ogren, seconded by Denny made a motion to approve the Variance from Article 3 Section 304.5 Table. All were in favor. APPROVED 5-0

Application # 33-31-24 David & Susan Gonthier

James Rines from Horizons Engineering came before the board representing the applicant who seeks to permit the replacement of a current dwelling with a new one as well as a new septic on 3 Holt Rd. The applicant seeks a variance for the sideline setback and special exceptions for tree cutting and erosion control.

The Board received two letters, one from the Freedom Conservation Commission and one from abutter Bruce Howlett in regard to storm water mitigation.

James explained that they had a few hiccups with the application and realized after submission that one of the layers of the plan had been turned off where the storm water mitigation was addressed. In this layer infiltration trenches were included. At this time James asked the board if they would accept additional details into the record which the board unanimously agreed to. This however was not the plan with the tranches on it. James explained that the stumps of the trees being removed would be ground flush.

Board Concerns:

- Erosion control needs to be on plan
- Fence added with silt sock due to slope
- Setback not moving any closer than it was
- Infiltration on plan

Board is in favor of application and would have moved forward if the details had been on plan

Acting Chair Ogren, seconded by Peter made a motion to continue the application to the May 28, 2024 meeting. All were in favor. APPROVED 5-0

Miscellaneous

- **Communication and miscellaneous.**

There was no mail.

There being no new business to come before the Board, the Motion by Pam, seconded by Karl that this meeting adjourns; Motion passed unanimously.

The meeting adjourned at 9:50 p.m.

Respectfully Submitted,
Lindsay Pettengill,
Recording Secretary